

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 482  
Judiciary II Committee Substitute Adopted 4/15/09

Short Title: Clarifications to Trust Code. (Public)

Sponsors:

Referred to:

March 10, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THAT A PERMISSIBLE APPOINTEE UNDER A POWER OF  
3 APPOINTMENT IS NOT A TRUST BENEFICIARY, AND TO CLARIFY THAT A  
4 LOAN OR PLEDGE BY A TRUSTEE MAY BE MADE IN CONNECTION WITH A  
5 LOAN OF THE TRUSTEE'S OWN FUNDS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 36C-1-103(3) reads as rewritten:

8 "§ 36C-1-103. Definitions.

9 The following definitions apply in this Chapter:

10 ...

11 (3) Beneficiary. – A person who:

- 12 a. Has a present or future beneficial interest in a trust, vested or  
13 contingent, including the owner of an interest by assignment or  
14 ~~transfer;~~transfer, but excluding a permissible appointee of a power of  
15 appointment; or  
16 b. In a capacity other than that of trustee, holds a power of appointment  
17 over trust property."

18 SECTION 2. G.S. 36C-3-302 reads as rewritten:

19 "§ 36C-3-302. Representation by holder of general testamentary power of appointment.

20 The sole holder or all coholders of a power of revocation or a presently exercisable or  
21 testamentary general power of appointment, including one in the form of a power of  
22 amendment, shall represent and bind other persons to the extent that their interests, as  
23 ~~permissible appointees, takers in default, or otherwise,~~are subject to the power. ~~To the extent~~  
24 ~~there is no conflict of interest between the holder of a general testamentary power of~~  
25 ~~appointment and the persons represented with respect to the particular question or dispute, the~~  
26 ~~holder may represent and bind persons whose interests, as permissible appointees, takers in~~  
27 ~~default, or otherwise, are subject to the power."~~

28 SECTION 3. Subdivisions (19), (19a), (19b), and (19c) of G.S. 36C-8-816 read as  
29 rewritten:

30 "§ 36C-8-816. Specific powers of trustee.

31 Without limiting the authority conferred by G.S. 36C-8-815, a trustee may:

32 ...

- 33 (19) Pledge trust property to guarantee loans made ~~by others~~ to any beneficiary;  
34 (19a) Guarantee loans made ~~by others~~ to any beneficiary;  
35 (19b) Pledge trust property to guarantee loans made ~~by others~~ to any  
36 proprietorship, partnership, limited liability company, business trust,



1 corporation, venture, agricultural operation, or other form of business or  
2 enterprise in which the trust or any beneficiary has an ownership interest.  
3 (19c) Guarantee loans made ~~by others to a~~any proprietorship, partnership, limited  
4 liability company, business trust, corporation, venture, agricultural  
5 operation, or other form of business or enterprise in which the trust or any  
6 beneficiary has an ownership interest."  
7 **SECTION 4.** This act becomes effective October 1, 2009.